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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1235-6 (SP2003)

Application Number

10/675,635

Filed

September 30, 2003

First Named Inventor

CHOI, Jae-Goo et al.

Art Unit

2618

Examiner

ALAM, Fayyaz

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record. 33,494

Registration number _____

☐

attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐

*Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S):	CHOI, Jae-Goo et al.	EXAMINER: ALAM, Fayyaz
APPLICATION No.:	10/675,635	GROUP ART UNIT: 2618
FILING DATE:	September 30, 2003	DATED: September 7, 2010
FOR:	KEYPAD ASSEMBLY FOR PORTABLE RADIO TELEPHONE AND METHOD OF CONTROLLING THE SAME	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL REQUEST FOR REVIEW

Sir:

In response to the Office Action and Advisory Action of June 7, 2010 and August 17, 2010, respectively, please consider the following remarks.

REMARKS

Claims 1-8 are pending in the application, with Claims 1, 4 and 7 being independent claims. Claims 1-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bick* (U.K. Pat. App. No. GB 2,367,530) in view of *Miyajima et al.* (U.S. 6,518,958).

Regarding the rejection of Claims 1, 4 and 7 under 35 U.S.C. § 103(a), the Examiner states that *Bick* teaches all of the elements of the claim, except for “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons,” which is allegedly taught *Miyajima*. Applicants disagree.

Bick discloses a keypad assembly 7 for a portable radiotelephone (Abstract; Fig. 3), comprising a key button part 17 having a plurality of key buttons 18 for functioning in one of a keypad mode and a touch screen panel mode (page 4 lines 18-19); and a power supply unit (page 4

lines 5-6).

Miyajima is directed to an electronic apparatus having a membrane switch and a touch panel switch at its entirety section, the touch panel switch is elastic and is laid over the membrane switch. The two-layered structure provides users with two operations: a “finger-sliding” operation and a “finger-depressing operation.”

A main concept in *Miyajima* is to perform a scroll function, whereas the present application provides an apparatus and method for inputting characters, as well as the scroll function. That is, each independent claim of the present application recites that there is no space between key buttons in order to facilitate character input. However, *Miyajima* does not mention “no space between key buttons” because the scroll function is available even if there is space between the key buttons. Therefore, there are technical differences between independent Claims 1, 4 and 7 and *Miyajima*.

As described above, in rejecting independent Claim 1 the Examiner admits that *Bick* fails to teach “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons,” but asserts that this is taught *Miyajima*. Applicants disagree.

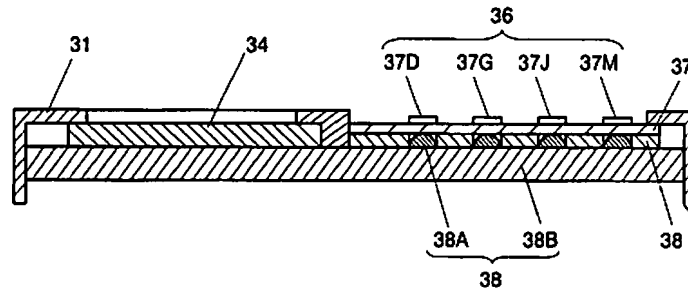
The Examiner cites the Abstract and FIGs. 1, 2, and 6-8 of *Miyajima*, specifically identifying “where keys are close together and without spacing where the finger is slid over the same area as the key button part.”

There is nothing in the Abstract of *Miyajima* that teaches or even suggests “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons.”

Further, as is readily apparent in FIG. 1, the key buttons in FIG. 1 are clearly spaced apart from each.

Further, FIG. 2 of *Miyajima* is presented below for ease of comparison.

FIG. 2



As shown above, FIG. 2 is a side perspective of the phone illustrated in FIG. 1. Additionally, FIG. 2 clearly shows that the top planar surfaces of the plurality of key buttons (37D, 37G, 37J, and 37M) are spaced far apart, and therefore do not form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons, as recited in independent Claim 1.

Additionally, FIGs. 6-8 illustrate basically the same phone and keypad illustrated in FIG. 1. Therefore, these figures also fail to teach “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons.”

Further, the Examiner’s identification of “where keys are close together and without spacing where the finger is slid over the same area as the key button part,” does not actually appear to relate to anything actually described in *Miyajima*, nor does it appear to address the recitation of Claim 1, i.e., “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons.”

Regarding the rejection of Claims 4 and 7 under 35 U.S.C. § 103(a), the above rationale for Claim 1 also similarly applies to independent Claims 4 and 7 with respect to *Bick* in view of *Miyajima*.

Accordingly, as neither *Bick* nor *Miyajima*, either alone or in combination, teaches “a plurality of key buttons being integrally formed with each other and being positioned such that top planar surfaces of the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons,” it was previously argued that independent Claims 1, 4, and 7 are patentably distinct from *Bick* in view of *Miyajima*.

In response to Applicants’ previous arguments, the Examiner states the following:

Miyajima clearly discloses according to its abstract and specification col. 5, lines 1-21, a two-layer structure, where the touch panel formed to be elastic is laid over the top surface of the entry section 36 and membrane switch with tactile feedback is laid beneath the touch panel switch 37. Furthermore, col. 5, lines 22-38 disclose that 37A-37N are markings for the key button input and are simply raised, but otherwise, the top surface is substantially planar and is a single surface with no spacing between keys. The “keys” underneath the touch panel membrane.

Applicants disagree with Examiner’s assertion that that “37A-37N are markings for the key button input and are simply raised, but otherwise, the top surface is substantially planar and is a single surface with no spacing between keys.” As is clearly shown above in FIG. 2, the top planar surfaces of the plurality of key buttons are spaced far apart, and therefore do not form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons, as recited in the independent claims.

Further, as *Miyajima* clearly teaches that the touch panel is laid over the top surface of the entry section 36 and membrane switch with tactile feedback is laid beneath the touch panel switch 37, it is unreasonable for the Examiner to now assert that the keys are actually underneath the touch panel membrane. Clearly, in *Miyajima*, the “keys” are formed by the touch panel laid over the top surface of the entry section 36. Accordingly, the top planar surfaces of the plurality of key buttons

are those identified by 37A-37N, which include 37D, 37G, 37J, and 37M of FIG. 2, and do not form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons.

Additionally, even if Applicants are to use the Examiner's new interpretation of the keys being below the touch panel membrane, FIG. 2 clearly illustrates that these keys are spaced apart from each other (see 38A and 38B). Accordingly, this still does not teach the plurality of key buttons form a single, substantially planar touch screen panel with no spacing in between the top planar surfaces of adjacent keys among the plurality of key buttons, for functioning in one of a keypad mode and a touch screen panel mode, as recited in the independent claims.

Therefore, it is respectfully submitted that independent Claims 1, 4, and 7 are patentably distinct from *Bick* in view of *Miyajima*, and it is respectfully requested that the rejection be withdrawn.

Regarding Claims 2-3, 5-6 and 8, while not conceding the patentability of the dependent claims, *per se*, it is respectfully asserted that Claims 2-3, 5-6 and 8 are also patentable for at least the above reasons. Accordingly, it is respectfully submitted that Claims 1-8 are allowable over *Bick* in view of *Miyajima*, and is respectfully requested that the rejection under 35 U.S.C. §103(a) be withdrawn.

Accordingly, all of the claims pending in the Application, namely, Claims 1-8, are believed to be in condition for allowance.

Respectfully submitted,



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